

REMARKS

Applicants thank Examiner Mohandesu for the courtesies extended to their representative during the telephone interview of March 14, 2008, at which time the issues raised in the Office Action mailed September 27, 2007, were discussed. No agreement was reached during the interview.

Claims 3-5, 17-20 and 22-24 are in the instant application. Claim 23 is cancelled, without prejudice, and the limitations of claim 23 are inserted in amended claim 17. Claim 17 is further amended to more positively recite Applicants' patentably novel eye drop container. No claims are allowed or indicated as allowable.

Claims 3-5, 17-20, 22 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hagele, United States Patent No. 6,129,248 (hereinafter also referred to as "Hagele"). Applicants respectfully traverse the rejection of claims 3-5, 17-20, 22 and 24 as being unpatentable over Hagele; however, to eliminate this issue, claim 17 is amended to recite an eye drop container, including, among other things,

a flexible hollow body portion having a closed end for containing a liquid therein; and

a dispensing body portion having a tip end spaced from the closed end of the hollow body portion, with the liquid free to move within the container between the flexible hollow body portion and the dispensing body portion, the dispensing body portion, comprising:

a first hollow body segment having an external circular surface and an

opposite internal circular surface, with the external circular surface having decreasing diameter as the distance from the tip end decreases to have the smallest diameter at the tip end, and the internal circular surface having decreasing diameter as the distance from the tip end decreases; and

a second body segment extending from the tip end into the first segment, the second segment having an outside circular surface and an opposite internal surface, with the internal surfaces of the first and second segments facing one another, spaced from one another, and the external surface of the second segment having increasing diameter as the distance from the tip end decreases, with the second segment at a predetermined

distance from the tip end terminating in a small-diameter instilling hole, the internal surface of the second body segment providing a passageway, wherein the passageway has no obstruction such that the liquid is free to move through the passageway and out of the tip end,

wherein said hollow body portion and the dispensing body portion are integrally and unitarily formed as one piece to form a blow-mold product or a vacuum-mold product,

wherein the tip end of the external surface has a bowl-shaped curved surface that is free of burrs, and

wherein applying a predetermined pressure to the body portion moves a predetermined amount of the fluid in the container through the instilling hole.

Support for the amendment to claim 17 is found, among other places, in the pending claims, e.g., cancelled claim 23, in the drawings and the forming of the tip 6 shown in Fig. 4d. Based on the foregoing, Applicants respectfully request admittance of the amendments to claims 17, and reconsideration of claims 3-5, 17-20, 22 and 24.

Claim 17, on which claims 3-5, 18-20, 22 and 24 are dependent, recites an eye drop container having a tip end that provides, among other things, safety features not realized in prior art eye drop containers. More particularly, the tip end of eye drop containers is sometimes positioned close to the eye of the patient at the time of installation of eye drops. The eye drop container of the present invention (recited in claim 17) provides for the tip end to have a bowl-shaped curved surface and thus, provides a smooth and safe shape so that no major disadvantage is caused even when the tip end contacts the surface of the eyeball. Hagele, on the other hand, discloses a container having the tip end with the perimeter ring 240, 40 (Fig. 1 to 6), perimeter edge 140 (Fig. 7) and annular plate 375, all of which have rectangular or trapezoidal corners, which may create the possibility of damaging the eye when the tip end contacts the surface of the eyeball. Hagele recognizes that if the tip 10 is inadvertently placed against the patient's eye during installation, injury may occur. Hagele prefers to make the tip deformable to avoid such injury (see column 4, lines 53-58 of Hagele). Applicants on the hand, to avoid injury do not rely on the deformability of the material of the container, which can vary from material batch to material batch, but relies on the bowl-shaped curved surface recited in claim 17.

Further, the tip end of the container of Hagele is provided with the perimeter rings 40, 140 and 240, and annular plate 375 in order to ensure easy departure of droplets from the tip. The container of the present invention, on the other hand has the claim defining that “applying a predetermined pressure to the body portion moves a predetermined amount of the fluid in the container through the instilling hole” which is directed to the construction for controlling the amount of the liquid drop. It is understood that the container of the present invention is invented based on a concept different to that of Hagele. Further, the construction of the eye drop container of claim 17 is different from the container of Hagele. The Hagele container has a perimeter ring at the tip end, such that the outside diameter of the perimeter ring, e.g. the perimeter ring 40 (Fig. 3 of Hagele), is larger than the outside diameter of notch 50. Claim 17, on the other hand, recites a first hollow body segment having an external circular surface and an opposite internal circular surface, with the external circular surface having decreasing diameter as the distance from the tip end decreases to have the smallest diameter at the tip end.

Claim 17 further recites that the tip end of the external surface has a bowl-shaped curved surface that is free of burrs. If the patient applies eye drops to the eye with the container tilted, and if the container has burrs on the tip end, there is a possibility that the droplets may flow around the tip end of the container to deform the shape of the droplet, which may hamper the accuracy of the application. According to the container of the present invention, the tip end of the external surface has a bowl-shaped curved surface that is free of burrs, thereby such a disadvantage is prevented.

Hagele discloses in column 4, lines 53-58 that the container is made by injection molding and there is no disclosure in Hagele that any burrs that remain after the container is formed by injection molding are removed.

The Office Action on page 5, lines 6-7 alleges that the product-by-process limitation recited in claim 23 results in no structure that is different from Hagele. Applicants respectfully disagree. The recitation of “wherein the tip end of the external surface has a bowl-shaped curved surface that is free of burrs” previously recited in claim 23 and now recited in claim 17 is not a product-by-process limitation but is a limitation by structure, i.e. “a bowl-shaped curved surface that is free of burrs.”

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Applicants note that the Office Action has failed to show where in Hagele the features of claims 18 and 20 are disclosed. For example and not limiting to the discussion, claims 18 and 20 recite, among other things, in one form or another, that the cap includes an internal nib shaped to engage portions of the external walls of the second body segment (see Fig. 1). The cap of Hagele has a flat inner surface (see Fig. 3 of Hagele) and does not have a nib as recited in Applicants' claims 18 and 20. Since Hagele fails to disclose the subject matter of claims 18 and 20, Applicants respectfully submit that claims 18 and 20 are patentable over Hagele.

For the above reasons, Applicants believe that the construction of the container according to amended claim 17 is not obvious from the disclosure of Hagele. Based on the forgoing, Applicants respectfully request withdrawal of the rejection of claims 3-5, 17-20, 22 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Hagele and request allowance of claims 3-5, 17-20, 23 and 24.

This Amendment represents a sincere effort to place this case in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned before further action is taken on the case.

Respectfully submitted,

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